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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 ) MM Docket No. 97-138  
Review of the Commission's Rules )  
Regarding the Main Studio and )  
Local Public Inspection Files of )  
Broadcast Television and Radio Stations )

**COMMENTS OF WICHITA GREAT EMPIRE BROADCASTING, INC.**

Wichita Great Empire Broadcasting, Inc. ("Great Empire"), by its attorneys, submits herewith its comments in response to the FCC's *Notice of Proposed Rule Making* regarding the main studio and local public inspection file of broadcast television and radio stations.<sup>1</sup> Great Empire is the licensee of five radio stations in the Wichita, Kansas radio market and fully supports the Commission's proposals to relax the main studio rule and modify the local public inspection file rules. Relaxation of these rules would be in the public interest because it would afford broadcasters greater "flexibility in complying with the rules, while at the same time ensuring that the rules continue to facilitate interaction between licensees and their local communities."<sup>2</sup>

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<sup>1</sup> *Notice of Proposed Rulemaking* in MM Docket No. 97-138, FCC 97-182 (rel. May 28, 1997) ("NPRM").

<sup>2</sup> *See id.* at ¶ 3.

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**I. Broadcasters Should Be Allowed to Locate a Station's Main Studio Within the Principal Community Contour of Any Co-owned Station in the Same Radio Market.**

The Commission adopted the main studio rule, 47 C.F.R. § 73.1125(a), to ensure that a broadcast station provided local service to its community of license.<sup>3</sup> The Commission originally required the location of the main studio within a station's community of license in order to ensure the station's accessibility to community residents. Location within the community of license also was thought to facilitate the broadcaster's exposure to "daily community activities," which, in turn, would enable the broadcaster to identify and respond to community needs and interests in fulfillment of its community service obligations.<sup>4</sup>

The Commission relaxed the main studio rule ten years ago, permitting licensees to locate their main studio within the station's principal community contour. In modifying the rule, the Commission noted the dramatic changes in the broadcast industry and in society overall which warranted a change in the rule.<sup>5</sup> Specifically, the Commission cited the decrease in the amount of programming originated from the main studio, the infrequency of public visits to studios, the ease of contacting the studio by telephone or mail, and the improvement in public transit systems and options for local transportation, making travel to a studio much easier. The Commission also noted that increased flexibility in locating a main studio would allow stations to achieve certain operational efficiencies while still serving the needs of the community of license.

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<sup>3</sup> *Id.* at ¶ 4.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at ¶ 5, citing *Report and Order, Amendment of Main Studio and Program Origination Rules for Radio and Television Broadcast Stations*, 2 FCC Rcd 3215, 3217-18 (1987) ("*Main Studio and Program Origination Report and Order*").

Each of these factors remains true today, if not more so. Certainly, it is far easier today to travel to a station or contact a station by mail, facsimile, telephone, and even electronic mail. In addition, given Congress' liberalization of the local radio ownership limits in the Telecommunications Act of 1996,<sup>6</sup> the opportunities for realizing public interest and economic benefits from owning several radio stations in the same market have grown considerably since the last time the Commission reviewed the main studio rule.<sup>7</sup> Given these additional societal and industry-specific changes, further modification of the main studio rule is appropriate.

## **II. Stations Should Be Permitted To Collocate The Main Studios Of Co-Owned Stations In The Same Market.**

Great Empire urges the Commission to allow radio stations to locate their main studio at a reasonably accessible site within the principal community contour of any co-owned station in the same radio market. A station's radio market would be determined in accordance with Section 73.3555(a) of the Commission's Rules.<sup>8</sup> This proposal would provide broadcasters with

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<sup>6</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

<sup>7</sup> See *id.* at ¶ 8; 47 C.F.R. § 73.3555(a)(1). Indeed, when the Commission relaxed the radio ownership rules and policies in 1992, it recognized that efficient station operations inherently lead to improved public service and thus have significant, "tangible" public interest benefits. In particular, the Commission observed that the ownership of two same-service radio stations in the same market enabled multi-station owners to "obtain the substantial efficiencies that common ownership can provide. These efficiencies include the opportunity to 'combine administrative, sales, programming, promotion, production and other functions as well as *to share studio space and equipment.*'" *Report and Order in MM Docket No. 91-140*, 7 FCC Rcd 6387, 6388 (1992) ("*Radio Ownership*").

<sup>8</sup> Section 73.3555(a) prescribes the methodology for determining a radio station's local radio market. Specifically, the radio market is considered to be that area encompassed by the composite of the overlapping principal community contours of all commonly-owned stations in a particular area. This methodology has been used by broadcasters since 1992 and provides an objective means for each radio station to determine its market. Given broadcasters' experience with this methodology, and that it provides a "bright line" for determining compliance, it is particularly appropriate for stations to use in locating their main studio.

greater flexibility in choosing a studio location that accommodates the needs of its community of license, while also permitting the broadcaster to achieve efficiencies associated with co-located operations.

The modified main studio rule proposed herein would more closely reflect the realities of today's economic marketplace and ensure continued service to the community. Since the last revision of the main studio rule, the radio multiple ownership rules have been reformed twice to reflect competitive and economic changes in the broadcast industry. Ten years ago, a single entity could own no more than one AM and one FM radio station in a market, regardless of market size. Today, in large markets, a single entity may own up to eight radio stations, and in the smallest markets, a single entity may own up to five radio stations.<sup>9</sup> In addition, many group owners operate their radio stations in a local market as a group with centralized management and administration. Under these circumstances, maintaining more than one main studio for several radio stations is completely impractical and ultimately provides no public interest benefit. A member of the public interested in visiting a group owner's studio should not be required to travel to several different locations to obtain information about the owner's operations. In addition, if stations were able to collocate main studios they could operate more efficiently. For instance, significant savings of rent, taxes, utilities, insurance and personnel costs could be achieved if stations under common ownership are allowed to consolidate their operations in one main studio. Centralization of the personnel of multiple radio stations would enable station staff

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<sup>9</sup> 47 C.F.R. § 73.3555(a).

to collaborate more effectively on programming, research, and marketing than is possible when employees are scattered throughout the market. The Commission has long recognized that such efficiencies per se serve the public interest because they allow stations to enhance their competitive position in a market and free up resources that can be devoted to enhanced public service and community involvement.<sup>10</sup>

Permitting stations to locate their main studio at any reasonably accessible site within the principal community contour of a co-owned station in the same radio market would not undermine the main studio rule's underlying purpose -- namely to ensure station accessibility to the public. As the Commission itself observed ten years ago, the increasingly advanced transportation infrastructure permits travel options over greater distances in less time than was possible when the Commission first adopted the main studio rule.<sup>11</sup> It is, therefore, no longer uncommon to travel moderate distances within a metropolitan area in order to conduct business and/or research. Given the advances in public transportation and the accessibility of major highways in many radio markets, station accessibility to the public would not be adversely affected by the proposed rule change.

Finally, relaxing the main studio rule as proposed herein would not inaugurate a mass exodus by radio broadcasters to the distant outskirts of a community merely to find cheaper real

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<sup>10</sup> See *NPRM* ¶ 8; *Radio Ownership*, 7 FCC Rcd at 6388.

<sup>11</sup> See *Main Studio and Program Origination Report and Order*, 2 FCC Rcd at 3217-18.

estate. In fact, the opposite is true: broadcasters, in order to remain competitive, must locate their facilities in accessible locales. Locating a studio near major thoroughfares and centers of commercial activity facilitates public access, coverage of local news and community affairs, and interaction with local business, political and community leaders.

### **III. The Public Inspection File Should Be Maintained at the Main Studio, Wherever Located, or Maintained on a Publicly Accessible Electronic System.**

The public inspection file rule, 47 C.F.R. § 73.3526, is based on the same policy concerns as those underlying the main studio rule -- to ensure that stations are accessible and responsive to the needs and interests of their local community.<sup>12</sup> Under this rule, a commercial broadcast station must maintain its public inspection file at its main studio (or other accessible place in the community of license if the studio is located outside the community) in order to facilitate public "monitoring of [the] station's operations and public interest performance."<sup>13</sup> Great Empire fully endorses the Commission's proposal to amend its rules in order to permit a commercial station to locate its public inspection file at its main studio, wherever located.<sup>14</sup>

If adopted, the Commission's proposal would actually improve the public's access to a station's public file. Many licensees whose main studio is outside the station's community of license maintain the station public file in a local library or local law office in the community of

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<sup>12</sup> See *NPRM* at ¶ 17.

<sup>13</sup> See *id.*; 47 C.F.R. § 73.3526(d).

<sup>14</sup> See *NPRM* at ¶ 20.

license. Such a system, however, is inherently flawed. Stations simply cannot maintain the same control over the public file or ensure public access to the file if the file is located somewhere other than the main studio. Nor can the file be updated as quickly or kept secure. In addition, the public reaps no benefit from accessing the file in one of these locations. Staff are not available to answer questions about the file and there is no guarantee that the file is complete at the time of its review. In these situations, most stations maintain duplicate public files -- one at the studio and one in the community of license so that the public can have greater access to the public file.

The public interest would be far better served if stations were required to maintain their public file at the main studio wherever located. The main studio is the most prudent and practical location for the public inspection file. A member of the public interested in monitoring a station's performance most likely expects to find the file at the main studio. In addition, maintaining the file at the studio places the file under the direct control of the station. This enables the station's staff to ensure the file's security and accuracy because the file could be updated more quickly and reviewed for completeness more easily. Station staff also would be readily available to provide assistance to those who wish to review the file. Finally, economies of scale could be realized by those broadcasters who collocate the studios of multiple stations in the same market and who could then maintain one public file rather than numerous duplicate copies. In short, the public will benefit substantially if the Commission amends its rules to require stations to locate their public file at the station's main studio, wherever located.

Great Empire objects to the suggestion of Salem Communications Corp. ("Salem") that a broadcaster be required to provide free transportation to the main studio or deliver public file documents to a requestor. The location of a main studio within the principal community contour of a commonly owned station ensures that the studio and the public inspection file are reasonably accessible to the public. Because a member of the public could travel relatively easily to a studio to inspect a station's public inspection file, there is simply no need to impose an additional regulatory burden on the station. Moreover, Salem's proposals would deny a requestor the luxury of being able to survey other, possibly relevant documents in the public file that otherwise might be unknown to the requestor. The requestor also would not have the ready aid of a nearby station employee if assistance became necessary.

Furthermore, the Commission should permit a broadcast station to make its public inspection file available via the internet or other publicly accessible electronic database. Such a system would permit more efficient research of a station's public file, and would enable the public to access the file from a home, office, school or library rather than traveling to the studio.

#### **IV. Conclusion.**

Great Empire applauds the Commission's efforts to modify the main studio and public inspection file rules. The Commission should relax the main studio rule to permit the location of a station's main studio at any reasonably accessible point within the principal community contour of any commonly-owned station in the same radio market. The Commission also should modify its public inspection file rule to permit the location of the public inspection file at the main



studio, wherever located, or to permit the use of a publicly accessible electronic public inspection file. These rule modifications will ensure radio stations' continued accessibility to local communities while allowing broadcasters to achieve substantial operational efficiencies that will translate into improved service to the public.

Respectfully submitted,

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